Mr. Chairman, thank you for holding today's hearing.

Developing sensible energy policies has always required a collaborative approach between the federal, state and local governments and the constituents they serve.

Since the light bulb's invention, states have been the lead on siting infrastructure like high-voltage transmission lines. State governments are closer to the people impacted by these facilities and know how they want their communities to grow.

That's one of the reasons I was very concerned about the Energy Policy Act of 2005. Rather than being respectful of the traditional federal-state relationship, the Energy Policy Act trampled on it by creating a legal mechanism for energy companies to end-run the states and get practically any transmission project – no matter how ill-considered – approved here in Washington, DC.

As someone who was deeply involved in that legislation, I'd like to take a moment to explain how we got where we are today.

In May 2001, the White House released the National Energy Policy developed by Vice President Cheney. This plan proposed new federal eminent domain authority to provide energy companies with rights-of-way for proposed electric transmission projects.

In October 2001, the electric utility lobby testified in support of the proposal. They testified that, in the preceding five years, electric utilities had exercised state-authorized eminent domain more than 400 times. Now, they wanted eminent domain at the federal level and they wanted state governments preempted whenever a state "materially altered" an energy company proposal. In short, they wanted their projects approved without delay and they wanted the force of government behind them to ensure that private property rights did not stand in their way.

Over the next four years, the Administration worked hard to give the energy companies exactly

that policy.

For example, on April 10, 2003, the Executive Office of the President issued a statement in strong support of the new federal eminent domain authority.

Pushed by both the White House and industry, Congress tried to enact the provision. Democrats raised objections to the new federal eminent domain policy. We attempted to offer a floor amendment to strike the provision in both 2003, and again in 2005. Unfortunately, the House Rules Committee prevented these amendments from being considered on the House floor.

Remarkably, Congress, simultaneously dealt with another eminent domain issue in a completely different way.

In June 2005 – just two months after the House had voted to create this sweeping new eminent domain authority – the Supreme Court decided Kelo v. the City of New London. This opinion upheld the states' authorities to use eminent domain in certain circumstances.

The response from Congress was swift and furious.

The Republican leadership immediately brought legislation to the House floor to limit the Supreme Court decision. They decried the opinion as an attack on private property rights.

In reality, the Kelo decision was far less intrusive than the energy provisions passed by Congress two months earlier.

That's why this hearing is so important. Instead of more rhetoric about property rights, this subcommittee is taking a hard look at the real-world impacts of the provision.

No member of Congress wants their district to suffer blackouts, but this isn't about blackouts. It's about respecting state authorities, ensuring adequate protections for cultural, historic and environmental values, and making sure private property rights are protected against needless abuse.

I look forward to hearing the testimony of today's witnesses.

Documents and Links

- Chairman Waxman's Opening Statement